

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 75 of 1991
with
INCOME TAX REFERENCE No 89 of 1992
with
INCOME TAX REFERENCE No 356 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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GUJARAT TEA PROCESSORS AND PACKES PVT LTD
Versus
COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 75 of 1991
MR JP SHAH for Petitioner No. 1
MR MANISH J SHAH for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 12/09/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The assessee has raised the following two identical questions for three assessment years, being Assessment Years 1983-84, 1984-85 and 1985-86, respectively.

"1. Whether the Tribunal was right in law and on facts in coming to the conclusion that the assessee which was engaged in blending, grading and packing of tea for making it into a marketable commodity was not entitled to the deduction u/s 80J of the I.T. Act, 1961?

2. Whether the assessee is entitled to relief u/s 80J in view of the decision of the Gujarat High Court in the case of Saurashtra Cement & Chemical Industries Ltd. (123 ITR 669)?"

2. Heard Mr. M.J. Shah, the learned advocate appearing on behalf of the applicant-assessee and Mr. M.R. Bhatt, Senior Standing Counsel appearing on behalf of the respondent-revenue.

3. It is not necessary to set out the facts in detail as it is common ground between the parties that the questions raised in each of the 3 references stand concluded by a decision rendered by this Court on 5.9.2002 in I.T.R. No. 146/89 in assessee's own case.

4. For the reasons stated in the aforesaid decision, we hold that the Tribunal was not right in coming to the conclusion that the assessee was not entitled to relief u/s 80J of the Income-tax Act, 1961 and that the assessee was entitled to relief u/s 80J of the Act in view of the decision of this Court in the case of Saurashtra Cement and Chemical Industries Ltd., 123 ITR 669.

5. The questions referred are, therefore, answered in favour of the assessee and against the revenue in all the three references.

The references stand disposed of accordingly.
There shall be no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

(hn)